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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

RISING TIDE I, LLC; RISING TIDE II, LLC,  
  
Plaintiffs,  
  
v.

MICHAEL FITZSIMMONS; PETER LAI;  
CHRIS G. POWER; PETER J. GOETTNER;  
CHRISTIAN BORCHER; ERNEST D. DEL;  
MARC S. YI; JAMES C. PETERS; AND  
SOUHEIL S. BADRAN,  
  
Defendants.

JOHN E. ABDO, as Trustee of the JOHN E.  
ABDO TRUST DATED JUNE 11, 2014, and  
JOHN E. ABDO, as Trustee of the JOHN E.  
ABDO TRUST DATED MARCH 15, 1976,  
  
Plaintiffs,  
  
v.

MICHAEL FITZSIMMONS; PETER LAI;  
CHRIS G. POWER; PETER J. GOETTNER;  
CHRISTIAN BORCHER; ERNEST D. DEL;  
MARC S. YI; JAMES C. PETERS; AND  
SOUHEIL S. BADRAN,  
  
Defendants.

Case No. 17-cv-00851 EDL  
Case No. 17-cv-01232-EDL

**JOINT STIPULATION AND ~~[PROPOSED]~~  
ORDER CONTINUING TRIAL AND  
ASSOCIATED DEADLINES**

Trial Date: January 13, 2020

Pursuant to Fed. R. Civ. P. 6(b)(1) and Civil L.R. 6-1, 6-2, and 7-12, the parties (“Parties”) in related case numbers 17CV0851-EDL and 17CV1232-EDL hereby submit, for the Court’s consideration and approval, this Joint Stipulation and Order Continuing Trial and Associated Deadlines as follows:

WHEREAS, on January 15, 2019 the Parties attended a mediation in the above titled related cases, which was unsuccessful.

WHEREAS, at mediation it was revealed that another mediation could be more productive after the completion of third party discovery, particularly discovery from third parties that may be obligated to indemnify Defendants and carry relevant insurance.

WHEREAS, the parties have been and are diligently seeking to further third party discovery and wish to continue such efforts in order to foster a potentially successful second mediation.

WHEREAS, some third parties are resisting such discovery and it is possible that motion practice will be necessary.

WHEREAS, given the additional discovery that needs to take place prior to the next mediation, the Parties agree and stipulate to continue trial and all associated deadlines by approximately sixty (60) days as follows or as deemed appropriate by the Court:

Event	Current Deadline	Extension (60 days - with the exception of the first deadline)
Deadline to file a motion to add claims or parties	1/30/19	5/30/19 <sup>1</sup>
Close of fact discovery	5/28/19	7/26/19
Initial expert disclosures	6/4/19	8/2/19
Rebuttal expert disclosures	6/18/19	8/16/19
Close of expert discovery	7/1/19	8/30/19
Deadline for Defendants’ dispositive motion	7/9/19	9/6/19

<sup>1</sup> The Parties agree to extend this deadline by 120 days because filing of third party complaints/counterclaims/crossclaims is likely to impede ongoing attempts at settlement.

1	Deadline for Plaintiffs to file combined opposition and cross-motion brief	7/30/19	9/27/19
2	Deadline for Defendants' combined reply and opposition brief	8/20/19	10/18/19
3	Deadline for Plaintiffs' reply to the cross-motion brief	9/3/19	11/1/19
4	Hearing on dispositive motions	9/24/19	11/26/19
5	Meet and confer re joint pretrial statement, exchange of pretrial materials, and settlement (at least 30 days before pretrial conference)	Not specified in Order	1/17/20
6	Deadline for:  -Joint pretrial statement -Trial briefs -Motions <i>in limine</i> -Daubert motions -Proposed voir dire questions -Jury instructions -Verdict forms -Deposition transcript designations and other discovery materials to be used at trial -Exhibit setting forth expert qualifications and experience -Exhibit lists -Exchange of exhibits, with copy to chambers  (at least 20 days before pretrial conference)	Not specified in Order	1/29/20
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16	Deadline for:  -Objections to exhibits or deposition excerpts or other discovery materials -objections to non-expert witnesses -Objections to proposed voir dire questions -Jury instructions -Verdict forms -Oppositions to motions <i>in limine</i>  (at least 10 days before pretrial conference)	Not specified in Order	2/7/20
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22			
23	Pretrial conference	12/17/19	2/18/20
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25	Jury trial (7 days)	1/13/20	3/16/20

1 WHEREAS, in case number 17CV0851-EDL the Parties have previously stipulated to  
2 and requested the Court issue an order extending the motion to dismiss briefing deadlines and  
3 hearing dates, as well as the date for the Initial Case Management Conference in this action  
4 (Dkts. 12, 15, 27, and 38), and this Court granted those stipulated requests (Dkts. 13, 18, 28, and  
5 39).

6 WHEREAS, in case number 17CV1232-EDL the Parties have previously stipulated to  
7 and requested the Court issue an order extending the motion to dismiss briefing deadlines and  
8 hearing dates, as well as the date for the Initial Case Management Conference in this action  
9 (Dkts. 12, 17, and 34), and this Court granted those stipulated requests (Dkts. 14, 18, 25, and 35).

10 THEREFORE, subject to the Court's approval, the Parties hereby Stipulate to an Order  
11 by the Court that the trial date currently set for January 13, 2020 and all associated deadlines be  
12 continued by approximately sixty (60) days.<sup>2</sup>

13  
14 DATED: January 29, 2019

COBLENTZ PATCH DUFFY & BASS LLP

15  
16  
17 By: /s/ Rees F. Morgan

18 Rees F. Morgan  
19 Sean P.J. Coyle  
20 Sarah E. Peterson

21 Attorneys for Plaintiffs  
22 RISING TIDE I, LLC; RISING TIDE II, LLC  
23  
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27 <sup>2</sup> In accordance with N.D. Cal. L. R. 5-1(i)(3), the filer of this document attests that concurrence  
28 in the filing of this document has been obtained from the other signatories.

1 DATED: January 29, 2019

STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.

2  
3  
4 By: /s/ Jason P. Hernandez

Eugene E. Stearns  
Jason P. Hernandez  
Matthew G. Graham

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7 Attorneys for Plaintiff  
JOHN E. ABDO,  
8 as Trustee of the JOHN E. ABDO TRUST  
9 DATED JUNE 11, 2014, and JOHN E. ABDO,  
10 as Trustee of the JOHN E. ABDO TRUST  
DATED MARCH 15, 1976

11 DATED: January 29, 2019

TAYLOR & PATCHEN, LLP

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13 By: /s/ Jonathan A. Patchen

Jonathan A. Patchen  
Max Baba Twine

14  
15 Attorneys for Plaintiff  
16 JOHN E. ABDO,  
17 as Trustee of the JOHN E. ABDO TRUST  
18 DATED JUNE 11, 2014, and JOHN E. ABDO,  
19 as Trustee of the JOHN E. ABDO TRUST  
20 DATED MARCH 15, 1976  
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27

1 DATED: January 29, 2019

SEYFARTH SHAW LLP

2  
3 By: /s/ Giovanna A. Ferrari

4 Gregory A. Markel  
5 Giovanna A. Ferrari  
6 Heather E. Murray

7 Attorneys for Defendants  
8 MICHAEL R. FITZSIMMONS, PETER LAI,  
9 CHRISTOPHER G. POWER, PETER J.  
10 GOETTNER, CHRISTIAN BORCHER,  
11 ERNEST D. DEL, MARC S. YI,  
12 JAMES C. PETERS and SOUHEIL S. BADRAN  
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~~**[PROPOSED]**~~ **ORDER**

The Court, having reviewed the Parties' Joint Stipulation and [Proposed] Order Continuing Trial Date and Deadlines, orders as follows:

The trial date currently set for January 13, 2020 and all associated deadlines be continued as follows:

Event	Current Deadline	Extension
Deadline to file a motion to add claims or parties	1/30/19	5/30/19
Close of fact discovery	5/28/19	7/26/19
Initial expert disclosures	6/4/19	8/2/19
Rebuttal expert disclosures	6/18/19	8/16/19
Close of expert discovery	7/1/19	8/30/19
Deadline for Defendants' dispositive motion	7/9/19	9/6/19
Deadline for Plaintiffs to file combined opposition and cross-motion brief	7/30/19	9/27/19
Deadline for Defendants' combined reply and opposition brief	8/20/19	10/18/19
Deadline for Plaintiffs' reply to the cross-motion brief	9/3/19	11/1/19
Hearing on dispositive motions	9/24/19	11/26/19
Meet and confer re joint pretrial statement, exchange of pretrial materials, and settlement (at least 30 days before pretrial conference)	Not specified in Order	1/17/20

<p>Deadline for:</p> <ul style="list-style-type: none"> <li>-Joint pretrial statement</li> <li>-Trial briefs</li> <li>-Motions <i>in limine</i></li> <li>-<i>Daubert</i> motions</li> <li>-Proposed voir dire questions</li> <li>-Jury instructions</li> <li>-Verdict forms</li> <li>-Deposition transcript designations and other discovery materials to be used at trial</li> <li>-Exhibit setting forth expert qualifications and experience</li> <li>-Exhibit lists</li> <li>-Exchange of exhibits, with copy to chambers</li> </ul> <p>(at least 20 days before pretrial conference)</p>	Not specified in Order	1/29/20
<p>Deadline for:</p> <ul style="list-style-type: none"> <li>-Objections to exhibits or deposition excerpts or other discovery materials</li> <li>-objections to non-expert witnesses</li> <li>-Objections to proposed voir dire questions</li> <li>-Jury instructions</li> <li>-Verdict forms</li> <li>-Oppositions to motions <i>in limine</i></li> </ul> <p>(at least 10 days before pretrial conference)</p>	Not specified in Order	2/7/20
Pretrial conference	12/17/19	2/18/20
Jury trial (7 days)	1/13/20	3/16/20

**IT IS ORDERED.**

Dated: 1/31/19

  
 ELIZABETH D. LAPORTE  
 UNITED STATES MAGISTRATE JUDGE